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ORIGIN EB-07

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FM SECSTATE WASHDC

TO AMEMBASSY BOGOTA

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- ",

E.O. 11652: N/A

TAGS: EAIR, CO

SUBJECT: CIVAIR- VOLUME DISCOUNT AND TAX ON AVIATION FUEL

REF: BOGOTA 11092 DEC 18, 1974

1. DELAY IN RESPONSE TO REFTEL OCCASIONED BY NEED TO CONSULT WITH BRANIFF WHOSE PERSONNEL CONCERNED WERE OCCUPIED WITH OTHER URGENT MATTERS. EMBASSY SHOULD INCORPORATE FOLLOWING POINTS IN NOTE TO GOC REJECTING ARGUMENTS ADVANCED IN ITS NOTE OF DEC 10, 1974:

THE COLOMBIAN DISCOUNT ON ITS FACE DOES NOT APPEAR TO BE JUSTIFIED IN LIGHT OF BUSINESS CONDITIONS PREVAILING THROUGHOUT THE WORLD. IN US FOR INSTANCE UNITED AIR LINES CONSUMED OVER 1.4 BILLION GALLONS OF FUEL IN 1974 BUT AT LEAST ONE POINT PAID 3 CENTS PER GALLON MORE THAN A
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COMPETITOR USING ONLY 350 MILLION GALLONS. VOLUME IS NO

LONGER A STRONG LEVER TO ACHIEVE PRICE DISCOUNTS. IN COLOMBIA FORMER OIL COMPANY DISCOUNTS APPLIED TO ANY AIRLINE DID NOT EXCEED 1-1.5 CENTS PER GALLON, WHILE AVIANCA NOW ENJOYS A 13 CENTS PER GALLON "DISCOUNT". AVIANCA IS THE ONLY HIGH VOLUME USER IN COLOMBIA, BUT THE "DISCOUNT" IS ALSO AVAILABLE TO SMALLER USERS SUCH AS AEROCOSTA, AEROCONDOR AND SAM. IF THE 42 CENTS PER GALLON IS NOT CONSIDERED EXORBITANT BY ECOPERTOL THEN THESE DOMESTIC COLOMBIAN AIRLINES SHOULD BE SUBJECT TO THAT SAME PRICE.

COLOMBIA IS ONE OF THE FEW COUNTRIES IN THE WORLD WHICH ALLOWS A DIRECT FUEL SUBSIDY TO ALL DOMESTIC AIRLINES FLYING EITHER DOMESTIC OR INTERNATIONAL ROUTES. COLLECTION OF A PREMIUM PRICE OF 13 CENTS PER GALLON FROM FOREIGN INTERNATIONAL CARRIERS APPEARS TO BE A MEANS OF FINANCING THIS SUBSIDY TO DOMESTIC CARRIERS.

IN THE US THE PRICES PAID BY AVIANCA HAVE ALWAYS BEEN REASONABLE BY ANY STANDARD OF COMPARISON. IN 1969, AVIANCA PAID ABOUT 9.8 CENTS PER GALLON FOR JET FUEL. A COMPETING US AIRLINE AT THE SAME POINT PAID APPROXIMATELY 10.9 CENTS PER GALLON. AVIANCA PAID NO TAXES ON ITS FUEL PURCHASES IN THE U.S. IN 1975, EVEN THOUGH ITS VOLUME PURCHASES WERE SMALLER THAN ITS COMPETITORS, AT MIAMI, FOR INSTANCE, AVIANCA CONTRACTED FOR JET FUEL AT 30.1 CENTS PER GALLON. AT THAT POINT, SOME SOUTH AMERICAN CARRIERS AND US COMPETITING CARRIERS WERE PAYING 30.9 CENTS TO 33.5 CENTS PER GALLON.

BEFORE THE ENERGY CRISIS, FOREIGN CARRIERS IN THE US USED ONLY BONDED FUEL THE PRICE OF WHICH WAS CONSIDERABLY LESS THAN THE PRICE OF DOMESTIC AVIATION FUEL. TODAY THE SITUATION IS REVERSED AND, THOUGH THE DOMESTIC PRICE IS BELOW THE PRICE OF BONDED, THE US HAS GRANTED INTERNATIONAL CARRIERS ACCESS TO THE CHEAPER US DOMESTIC POOL OF AVIATION FUEL.

AS FOR THE TAX PAID BY BRANIFF ON ITS FUEL PURCHASES IN COLOMBIA, IT SHOULD BE NOTED THAT THIS PRACTICE PLACES IN JEOPARDY AVIANCA'S TAX-EXEMPT STATUS UNDER US LAW LIMITED OFFICIAL USE

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AND COULD ALSO THREATEN ITS ACCESS TO US DOMESTIC FUEL.

2. IN REPLY IT SHOULD BE STRESSED THAT THE USG CONSIDERS BOTH THE FUEL TAX AND VOLUME DISCOUNTS AS SERIOUS UNFAIR PRACTICES FROM WHICH PROMPT AND EFFECTIVE RELIEF SHOULD BE GRANTED TO US CARRIERS. EMBASSY SHOULD ALSO POINT OUT, AT ITS DISCRETION, EITHER IN NOTE OR ORALLY, THAT:

A) IN VIEW CONTINUED GOC INACTION ON TAX ISSUE, DEPARTMENT IS CONSIDERING DECISION TO REFER CASE TO DEPARTMENT OF COMMERCE FOR REEXAMINATION OF AVIANCA'S TAX EXEMPT STATUS,

B) AS FOR DISCRIMINATORY VOLUME DISCOUNT ISSUE, EVENTS ARE NOW COMING TO A HEAD LEAVING INCREASINGLY LESS ROOM FOR WITHHOLDING US ACTION AGAINST AVIANCA.

FEA RECENTLY INFORMED DEPARTMENT THAT AVIANCA HAS REQUESTED AN ADJUSTMENT IN ITS FUEL ALLOCATION BASE AND FEA CERTIFICATION TO ALLOW IT TO PURCHASE US DOMESTIC FUEL. IN VIEW OF PRESENT SITUATION OF COLOMBIAN TREATMENT OF US CARRIERS, DEPARTMENT UNABLE TO GRANT CLEARANCE FOR FEA DECISION.

3. DEPARTMENT HAS INFORMED AVIANCA REPS OF POTENTIAL PROBLEMS IT NOW FACES BECAUSE OF GOC FUEL AND TAX POLICIES. EMBASSY MAY ALSO WISH TO DISCUSS THIS MATTER WITH AVIANCA IN BOGOTA. INGERSOLL

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